

**HIGH TECHNOLOGY THEFT APPREHENSION & PROSECUTION PROGRAM
DOJ DAG SUPPORT PROGRESS REPORT**

California Emergency Management Agency
Law Enforcement and Victim Services Division
CRIME SUPPRESSION SECTION
3650 Schriever Avenue
Mather, CA 95655
Fax (916) 323-1756

Following the instructions, please provide the information as indicated. **SUBMIT ONE (1) ORIGINAL AND ONE (1) COPY TO THE ABOVE ADDRESS.**

1. Project Title	<u>HTTAP – DAG Support</u>	2. Grant Award #	<u>HD08089504</u>
3. Recipient	<u>California Department of Justice</u>	4. Grant Period	<u>7/01/09 – 6/31/10</u>
5. Address	<u>1300 I Street, Room 940-20. Sacramento, CA 95814</u>	6. Report Period	<u>1/01/10 – 3/31/10</u>
7. Report prepared by	<u>Robert Morgester</u>	8. Title	<u>Project Manager</u> (Relationship to Project)
9. Telephone Number	<u>(916) 445-9330</u>		

PROGRESS REPORT

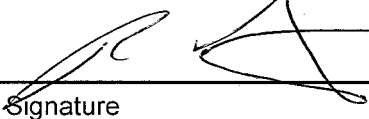
- ☐ 5th Progress Report: Narrative/Statistical report covering July/August/September (Due 10/31/09)
☐ 6th Progress Report: Narrative/Statistical report covering October/November/December (Due 01/30/10)
☒ 7th Progress Report: Narrative/Statistical report covering January/February/March (Due 04/30/10)
☐ Final Progress Report: Narrative/Statistical report covering April/May/June (Due 07/31/10)

BUDGET

1. Total grant award:	\$	<u>867,299</u>
2. Total funds expended to date:	\$	<u>373,532</u>
3. Items encumbered but not paid for:	\$	<u>Accounting pending</u>
4. Total grant balance:	\$	<u>Accounting pending</u>
5. Month of most recently submitted Report of Expenditures		<u>Accounting pending</u>

Are grant funds being expended in accordance with the Grant Award Agreement? ☒ YES ☐ NO
If no, explain in the narrative section of this report.

I CERTIFY THAT THIS REPORT IS ACCURATE AND IN ACCORDANCE WITH THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY POLICIES AND PROCEDURES.

	<u>PROJECT MANAGER</u>	<u>4/30/10</u>
Signature	Title	Date

Cal EMA Program Specialist's Comments (For Cal EMA use only): ☐ Approved ☐ Disapproved

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Signature of Program Specialist

Date

PERSONNEL - Positions Authorized in Grant Award Agreement:

Name of Staff	Position	Duties	Full-Time Equivalency (% of FTE)
1. Tawnya Boulan	DAG III	Prosecutor – assigned to CATCH Task Force	30%
2. Ralph Sivilla	DAG III	Prosecutor – assigned to REACT Task Force	15%-75%
3. Keith Lyon	DAG IV	Prosecutor – assigned to Northern California Task Force	15%-75%
4. Robert Morgester	DAG IV	Prosecutor – assigned to SVHTCTF	15%-75%
5. Jim Root	DAG IV	Prosecutor – assigned to SCTF	15%-75%
6. Jason Nichols	SA	Special Agent – assigned to Sac. office	40%
7. Ron Smetana	SAAG	Supervisor	06%
8.			
9.			
10.			
TOTAL			

1. Have there been any delays in hiring project personnel? ☐ YES ☒ NO If YES, explain below.
2. Are there any personnel issues which may affect the project objectives? ☐ YES ☒ NO If YES, explain below.
3. Have any of the job duties, as detailed in the Grant Award, changed? ☐ YES ☒ NO If YES, explain below.

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EQUIPMENT

(List equipment purchases for the entire grant period.)

Does your Grant Award allow equipment purchases? ☒ YES ☐ NO If yes, detail below:

<u>Equipment</u>	<u>Cost</u>	<u>Date Ordered/Received</u>
1. Large format printer	\$5,458	12/17/09
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

If your equipment purchases exceed the space above, or you have encountered problems in ordering/receiving grant equipment, please detail issues in the Narrative Section of this report.

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Discuss:

- Any problems the project is experiencing in starting-up the grant award.

No issues to report.

- Any delays and/or problems in implementation.

No issues to report.

- Activities supporting each objective which are not currently operational or in place.

No issues to report.

- The project's source documentation designed to track the project's statistical information. Project members are required to use "Pro Law," a time system that captures all grant related activities. Additional physical source document is retained by the project relating to the investigation, filing, and prosecution of criminal cases.

- Any anticipated areas that may need to be modified, (i.e., budget changes due to staff changes, equipment changes, or modification to program objectives).

No issues to report

- Discuss the project's progress to date.

Investigative resources continue to be an issue. The program is now using state auditors to serve search warrants on financial institutions and to conduct interviews in limited cases. The State budget crisis has also placed limitations on the program. Furloughs and travel limitations have impacted investigations.

The program is also seeing a cost shifting for investigative services from other state agencies to this program. For example, the State Controller's Office eliminated it's sworn investigator positions. Investigations that were done by the State Controller are now being conducted by this program.

Large cases continue to impact the programs ability to take in new cases. Case like *People v. Prather et al.* (48 defendants) or *People v. Armitage et al.* (\$200,000,000 loss) ties up limited prosecutorial resources and reduces the programs ability to accept new case referrals.

- Submit pertinent news articles or any information pertaining to the project's activities.

PROGRAM GOALS AND OBJECTIVES

INSTRUCTIONS: Provide data reflecting the grant activities. All data must be supported by source documents retained by the grantee and be made available upon request to Cal EMA. The below

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reportable information has been derived directly from the Objectives and Activities Section as submitted from the grant award agreement.

ACTIVITIES/COMMENTS:

Briefly discuss the project's activities during this reporting period relative to the specific objective. Detail any innovations or exceptional achievements that positively impacted the program. Discuss any problems encountered in meeting the objectives.

OBJECTIVE #1: Provide Training of Law Enforcement and Prosecutors.

- 1) Report activities accomplished that developed practical legal resources for investigators and prosecutors in conjunction with locally assigned task force attorneys and the California District Attorney's Association (CDAA). Include information relating to case digests, search warrant manuals, and other written material which focused on high technology crime issues. *Please note and report the number of any of the above reported statistics that have been reported through another Cal EMA High Tech Theft Apprehension and Prosecution Program (HTTAP) grant.*
- 2) Report the number of investigators, prosecutors, and judges that received training on identity theft crime in conjunction with POST, CDAA and other state recognized training programs. *Please note and report the number of any of the above reported statistics that have been reported through another Cal EMA High Tech Theft Apprehension and Prosecution Program (HTTAP) grant.*

TRAINING: List any high technology crime or forensic computer training attended during this period, training provided by your task force to other law enforcement agencies, or training presented to the public or to community groups. (Report all training from the beginning of the grant period to current report submission.)¹

	DEVELOPED/CERTIFIED CURRICULA	DATE	LOCATION	# trained	Agency Trained
1.	AGACL – E-Evidence	7/31/09	Florida	150	State Prosecutors
2.	Secure World Expo: Introduction to High-Tech Crimes	9/16/09	Santa Clara	10	Various
3.	DOJ: Computer Crime Investigation (POST Certified)	8/10/09	Pasadena	25	Various
4.	WSATI Conference (POST Certified)	10/7/09	Tahoe	75	Various (2 classes)
5.	Sexual Assault Investigator Association: Cell Phone (POST)	10/7/09	Irvine	60	Various

¹ Since program attorneys support HTTAP grant funded task forces all reported statistics may also be reported by a supported HTTAP grant funded task force.

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6.	DOJ ATC CEDR course (POST)	10/19/09	Sac.	19	Various
7.	Regulating Crime in the Cloud: Policing Unlawful Behavior on Social Networks	10/23/09	U.C. Berkeley	100	Law School program for public
8.	OPP: Annual Identity Theft Passport Advisory Council Meeting	11/5/09	OPP	20	NAAG
9.	CDAAs Insurance Fraud Conf. (POST) - eEvidence	11/16/09	S.F.	70	Attny / Inv
10.	CDAAs Insurance Fraud Conf. (POST) - Business records	11/16/09	S.F.	70	Attny / Inv
11.	CDAAs Insurance Fraud Conf. (POST) - Cell Phones	11/17/09	S.F.	70	Attny / Inv
12.	CDAAs Asset Seizure Program (POST)	11/17/09	Sac.	20	Attny / Inv
13.	NDAA Forensic Evidence Course - E-evidence	12/10/09	S.D.	80	State attorneys
14.	Introduction to High Tech Crimes	2/22/10	Napa	24	Inv
15.	CDAAs Asset Seizure Program (POST)	3/16/10	Napa	100	Attny / Inv
16.	CDAAs Search Warrant Seminar (POST)	3/17/10	Sac.	60	Attny / Inv
17.	ICI POST Advance Homicide Course	3/25/10	Sac.	20	Inv.

The program has the following specific objectives:

- Instruct the legal block of eight POST-sponsored instructional programs that have a component addressing high technology crimes.
- Provide technical assistance or instruction at one state-wide legal training program that has a

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component addressing high technology crime issues.

The program has met the grant objectives.

OBJECTIVE #2: Provide Legal and Prosecution Support to the Five Task Forces.

- 1) Report activities completed for each Deputy Attorney General assigned in association with the five regional Identity Theft Task Forces to include:
 - a) Investigative Support
 - b) Coordination of Investigative Resources
 - c) Coordination of Prosecutorial Resources
 - d) Prosecution Support

The programs specific objective is to file and provide vertical prosecutorial and investigative support on 25 cases of multi-jurisdictional dimension involving high technology crime and identity theft violations.

To meet this objective the DAGs have been assisting their assigned units with general legal support, search warrant review, training, and vertical prosecution. During this grant period, the project filed 9 criminal complaints. The project also convicted 29 defendants and sentenced 19 defendants.

The project has some concern as to its ability to file 25 cases during the reporting period. Large cases continue to impact the programs ability to take in new cases. Case like *People v. Prather et al.* (48 defendants) or *People v. Armitage et al.* (\$200,000,000 loss) tie up limited prosecutorial resources and reduces the programs ability to accept new case referrals. These type of cases generally only count as "one case" for grant reporting purposes.

Significant cases or activities during this year's reporting period include:

People v. Karapenyan et al.: Defendants have a "skimmer" which attaches to the inside of gasoline pumps to capture ATM Debit card numbers and PIN numbers. The information was used to create a duplicate ATM Debit card which the defendants and at least 3 others individuals used to withdraw money. Preliminary losses include: \$20,000 for Contra Costa, and \$100,000 for San Mateo. There are multiple jurisdictions in Northern California that are likely involved as well as multiple states. Status: Three defendants have been arrested and arraigned.

People v. Prather et. al. (Navy Federal Credit Union): In April 2009, a San Diego grand jury returned a 347-count indictment against Kimberly Prather and 60 other defendants for conspiracy, grand theft, identity theft, burglary, gang-related felonies and other crimes. The case involves the prosecution of a criminal street gang for engaging in a scheme that defrauded the Navy Federal Credit Union of more than \$600,000. Gang members and others recruited members of the Navy Federal Credit Union and convinced them to provide information about their accounts and allow use of their debit cards for cash. Armed with the account information and the debit cards, the conspirators deposited counterfeit or fraudulent checks to the compromised accounts to boost the account balances, and then withdrew cash at a local Indian casino by manipulating the cash advance system. Once the account sellers' accounts were flagged for fraud, the account sellers would claim their debit cards had been lost or stolen so that the transactions would not be further scrutinized and the credit union would absorb the losses. A coordinated effort led to the arrest of more than 40 defendants in May 2009; eight defendants remain at large.

Thus far, 53 defendants have entered guilty pleas. Of those, 36 defendants entered into cooperation agreements, 14 defendants pled guilty to state prison sentences, and one defendant stipulated to a seven-year stayed prison term. Four new felony matters have been filed against other conspirators who were discovered during the course of the investigation. Two defendants still have pending cases; charges were dismissed against five defendants; and two defendants remain at-large. Total prison sentences for the case equal 58 years 8 months. Over 100,000 dollars in restitution has been ordered thus far. Current status: Kimberly Prather was sentenced to six years state prison following her guilty plea.

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People v. Anthony Robinson: Robinson, a member of Lincoln Park Criminal Street Gang in San Diego, participated in an extensive conspiracy to negotiate fraudulent checks for the benefit of the gang and its affiliates. In addition, Robinson recruited another person to participate in the scheme and had a prior conviction for drug sales. Status: Robinson pled guilty to felony grand theft and was sentenced today to 4 years 4 months in state prison and ordered to pay restitution.

People v. Lemoine et. al.: Defendants created and passed counterfeit California State checks. Over 200 checks were passed in 20 different counties. Status: Kim Lemoine was sentenced to five years state prison and ordered to pay restitution in the amount of \$320,726. Heidi Roth was sentenced to eight years state prison and was ordered to pay restitution in the amount of \$225,700. Laurie Harkey was sentenced to two years state prison and was ordered to pay restitution in the amount of \$54,000. Daria Sidorkina was sentenced to one year county jail and was ordered to pay restitution in the amount of \$12,000.

People v. Stephanie Wilson: Defendant engage in an elaborate scheme via the internet renting luxury accommodations in Hawaii. Victims from all over the world traveled to Hawaii and learned upon arrival their accommodations had not been booked. Defendant was successful in this ongoing scheme by using the stolen identities of those close to her, including her employees, to deceive victims and would be clients. Status: Wilson plead guilty to one felony violation of Penal Code section 487(a) on 8/18/09 to a stipulated state prison term of 16 months. Restitution hearing is pending.

People v. Ricafort alt: Ricafort's manufactured and sold diplomatic identification cards and badges to customers guaranteeing diplomatic immunity. Badges were manufactured in part using documents obtained from the California Secretary of State. Status: Russel Ricafort entered a guilty plea to a felony violation of Penal Code section 483.5(a), sale of deceptive documents, and was placed on five years probation and sentenced to 180 days county jail.

People v. Seymore: Seymore is a DMV employee that re-issued valid CDL to individuals that have suspended licenses. Status: Plead guilty to a felony violation of Penal Code section 502, changing computer data, and was placed on five years probation and sentenced to 180 days county jail.

People v. Starks: Starks is a DMV employee who issued valid CDL to individuals that were not eligible. Status: Plead guilty to a felony violation of Penal Code section 502, changing computer data, and was placed on five years probation and sentenced to 180 days county jail.

People v. Steven Ross. Ross is a chiropractor who operated clinics where medical exams were performed for commercial driver license applicants. Drivers were not examined by Ross and defendant was not present at the clinics while exams were performed by unlicensed employees. Exam reports containing defendant's signature were generated by defendant's computer system. Ross plead guilty to felony perjury and was placed on four years probation and ordered to pay a \$25,000 fine.

People v. Morgan Hicks: Suspect burglarized about 50 different homes across San Benito, Monterey, and Santa Cruz counties. Among the many items he would steal from the homes were credit cards which were used by himself and others who assisted him in his burglary spree. Status: Preliminary Hearing held on December 15 and 16, 2009. Defendant was held to answer on all 60 counts he was charged with. Jury trial setting 4/15/10

People v. Minchau Pham, Rocky Butanti, Ron Jones: Defendant, with the assistance of others, offers to sublease vehicles for people who are having trouble making payments on the leases of their cars. Defendant takes possession of the vehicles and supposedly finds an individual who will take over the payments. However, payments are never made on the original lease and the cars are not returned to the original lessees. Loss exceeds \$400,000. Status: Case is set for Preliminary Hearing setting on 4/14/10.

People v. Reginald Hudson, Sabrina Bell: Defendant Bell was part of a conspiracy run by the main defendant Reginald Harrison to deposit counterfeit checks. Defendant Bell provided Defendant Harrison with copy of checks from the company she was employed with. Defendant Hudson used those checks to create counterfeit checks

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which he later cashed or deposited. Loss: \$ 50,000. Status: Defendant Bell pled guilty to a conspiracy charge and was placed on three years probation and sentenced to 120 days county jail and ordered to pay restitution.

People v. Christopher Norman: Defendant used his position with a San Francisco company to purchase computer component parts without authorization and sell the parts on eBay. Loss: Over \$ 50,000. Status: Defendant plead to grand theft by embezzlement; sentencing on 4/29/10.

People v. Nick Luu, Chev Chan, et.al.: 6 defendant conspiracy—defendants stole identities, made false identification cards, and used the false credit cards to purchase expensive products at various stores throughout the San Francisco Bay area. Estimated loss: over \$170,000. Charges have been filed and an arrest warrant has been issued.

People v. Lola Sloan, Stacy Sims, Adriana Damiana: 3 defendant conspiracy—defendants would distract cashier at various stores throughout Northern California and steal iPods, games, and laptops. Status: Charges have been filed, Sloan and Sims have been arrested, and both defendants are scheduled for Early Disposition Resolution on 4/7/10.

People v. Shin: Defendant used account information of Version Phone Customers to acquire over 1000 replacement cell phones over the course of two years. Loss in excess of \$300,000. Status: Defendant arraigned and not guilty plea entered.

People v. Reedy: Defendant sells Apple Notebooks purchased with stolen credit on Craigslist. He pirates and sells all software. During executions of search warrant over 30 new Notebooks seized. Criminal complaint filed on original undercover buy. Ongoing investigation as to other conspirators purchasing stolen computers at Universities throughout the state and sending to the defendant. Status: Defendant arraigned and not guilty plea entered. Additional charges anticipated.

Rodco and Associates (investigation): Justine and Thomas Rodine are accused of submitting forged or fraudulent claims for over 2.8 million dollars in unclaimed property with the Controller's Office. Allegations include the forgery of the heirs' signature and notary stamp to obtain property and diversion of funds from the heirs. Status: search warrant was served and a complete audit is ongoing on submitted claims.

Please note and report the number of any of the above reported statistics that have been reported through another Cal EMA High Tech Theft Apprehension and Prosecution Program (HTTAP) grant.

- 2) Report the number of prosecutions, subsequent convictions, and percentage of increase or decrease in activity that was a direct result of the above coordinated efforts.

The project has accomplished the following during this grant (7/01/09 – 03/31/10):

- Number of filed complaints: 9
- Number of probation violations:
- Number of indictments:
- Number of DOJ investigations: 4
- Number of DOJ arrest: 2
- Total aggregate loss to victims: \$990,000
- Suspects convicted: 29
- Suspects sentenced: 19
 - Aggregate sentence: 40 years, 9 months, 13 days
 - Average sentence: 2.14 years
 - Minimum sentence: 13 days
 - Maximum sentence: 8 years state prison
- Restitution ordered: \$762,681.91

All the above activity is a direct result of grant funding being used to coordinate efforts.

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Please note and report the number of any of the above reported statistics that have been reported through another Cal EMA High Tech Theft Apprehension and Prosecution Program (HTTAP) grant.

OBJECTIVE #3: Provide Legal and Prosecution Support to Rural Counties.

- 1) Report the support provided to smaller counties that are outside the umbrella of the Identity Theft Task Forces to include:
 - a. Investigative Support
 - b. Coordination of Investigative Resources
 - c. Coordination of Prosecutorial resources
 - d. Prosecution Support

The program is consulted by law enforcement and prosecutors state wide. The majority of inquiries are referrals from individuals who have gone through one of the many classes taught by the program. We continue to see significant requests for advice coming from agencies that do not participate with the task forces but reside within the task force boundaries.

Support was provided during this reporting period to the following agencies: Albany Police Department, Amador County District Attorney's Office, Ceres Police Department, Davis Police Department, Fairfield Police Department, Fresno County District Attorney's Office, Gilroy Police Department, Modesto Police Department, Monterey County District Attorney's Office, Monterey County District Attorney, Monterey Police Department, Mono County District Attorney's Office, Nevada County District Attorney's Office, Riverside County District Attorney's Office, Redding Police Department, Santa Barbara Sheriff's Department, Ventura County District Attorney's Office, and Yolo County District Attorney's Office.

Cases supported during this reporting period include *People v. Armitage et. al.*, *People v. Morgan Hicks*, *People v. Karapenyan et al.*, *People v. Lemoine et. al.*, *People v. Starks*, *People v. Seymore*, and *People v. Ricafort*.

The DAGs also continue to participate in the following e-mail "list serves": "HTTF" which targets California high-tech crime prosecutors, "Digital DA" which targets state high-tech crime prosecutors nationally, and "HTCC" which targets high tech investigators globally. The use of "list serves" enables prosecutors and investigators to consult with other specialists to obtain information and advice on emerging legal problems in this new and rapidly changing field.

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- 2) Report the number of prosecutions, subsequent convictions, and percentage of increase or decrease in activity that was a direct result of the above coordinated efforts in the smaller county referrals.

Cases supported during this reporting period include *People v. Armitage et. al.*, *People v. Morgan Hicks*, *People v. Karapenyan et al.*, *People v. Lemoine et. al.*, *People v. Starks*, *People v. Seymore*, and *People v. Ricafort*. The program attempts to take in all cases that are referred by or impact a smaller county.

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OBJECTIVE #4: Coordinating Out-of-State Investigation Requests

- 1) Report the coordination requests received and efforts provided for out-of-state investigation requests as applicable to Penal Code §13848.6.

During this reporting period the project assisted with the following:

People v. Stephanie Wilson (Hawaii)
People v. Karapenyan et al. (various)

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- 2) Report the number of out-of-state requests received, to include the percentage of increase or decrease, for additional assistance, number of cases filed, number of prosecutions brought forward, and number of subsequent convictions. Provide information as to other states' willingness to assist California-based task forces as a result of the above outreach efforts.

During this grant period the project assisted with the following:

- a) Defiance Ohio: Legal process request regarding Adult Friend Finder.
- b) USDOJ request regarding seizing a server under state law. Referred to REACT
- c) McHenry County State's Attorney (North Dakota): 2 party consent law.
- d) Miami Florida: Possession of child pornography inquiry.
- e) Australia: General legal inquiry
- f) Franklin County Prosecutor's Office, Ohio: Identity theft resources
- g) New Mexico Attorney General's Office: Subpoenaing a California resident
- h) District Attorney's Office, Dane County Wisconsin: Facebook production
- i) West Virginia Attorney General: Cybercrime Task Force query

This program allows DAG to provide assistance to and form relationships with out-of-state investigators and prosecutors. These relationships are a valuable resource in the programs ability to obtain investigative support outside of California. The program attempts to address all request received from other states.

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OBJECTIVE #5: State Agency Support

- 1) Report activities conducted in conjunction with the local task forces that support investigations and prosecutions involving high technology crimes quantified under Penal Code §13848.6 that were initiated by other state agencies.

The DAGs continue to provide direct assistance to the California Highway Patrol's Hi-Technology Crime Program. During this reporting period we have opened an investigation upon the request of Fiscal Crisis & Management Team (Westwood Charter School) and the California State Controller's Office (Rodco and Associates). We are also reviewing a cases presented by the California Department of Motor Vehicles, California Medical Board and

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Office of the Inspector General.

We have also provided legal assistance to the California Highway Patrol, Board of Equalization, Franchise Tax Board, State Lottery Commission, Office of the State Chief Information Officer, and Department of Insurance.

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- 2) Report the number and the percentage of increase or decrease of state agencies seeking assistance, cases filed, prosecutions brought forward, and subsequent convictions as a result of the above state agency support.

Cases currently being prosecuted include: *People v. Lemoine et. al.*, *People v. Armitage et. al.*, *People v. Starks*, *People v. Clark*, *People v. Ricafort*; *People v. Yakovlev et. al.*; *People v. Seymore*; and *People v. Minchau Pham*. The project attempts to take in all cases that are referred by state agencies.

Please note and report the number of any of the above reported statistics that have been reported through another Cal EMA High Tech Theft Apprehension and Prosecution Program (HTTAP) grant.

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